



**Commission on
Higher Education**

FACILITIES POLICY & PROCEDURES MANUAL

REVISED OCTOBER 2006

DIVISION OF FINANCE, FACILITIES, & MIS

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FOREWORD

The review of permanent improvement projects for South Carolina's 33 public colleges and universities is one of the most important on-going activities of the Commission on Higher Education. The Commission's role and responsibilities in this area were first addressed by the General Assembly in 1967 in the legislation that established the Commission on Higher Education.

This manual incorporates the permanent improvement requirements of the Budget and Control Board and the Joint Bond Review Committee. The manual has been developed for use in making the submission and review of facilities projects as simple and straightforward as possible.

Questions, comments, and suggestions related to the manual format or its contents should be directed to the CHE Division of Finance, Facilities, & MIS.

REVISED OCTOBER 2006

The current revised edition of the manual includes the following changes:

- Page 4, "SC Commission on Higher Education Membership" – *Revised*
- Page 5, "Finance & Facilities Committee Membership" – *Revised*
- Page 6, "Facilities Advisory Committee Membership" – *Revised*
- Page 7, "CHE Division of Finance, Facilities, & MIS Staff" – *Revised*
- Page 13, "Acquisition of Real Property Building Condition Assessment" – *Added*
- Page 32, "Appendix H: Table of Contents & Report Format for Phase I Building Condition Assessments for State Building Acquisitions" – *Added*

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SC COMMISSION ON HIGHER EDUCATION

MEMBERSHIP

As of October 2006

<u>Name</u>	<u>Appointment</u>	<u>Term Expires</u>
Dr. Layton McCurdy	Chairman	July 1, 2008
Dr. Douglas Forbes	Statewide Appointee	July 1, 2004
Ms. Cynthia Mosteller	Statewide Appointee	July 1, 2008
Mr. Kenneth Wingate	Statewide Appointee	July 1, 2008
Mr. Daniel Ravenel	First District	July 1, 2008
Vacant	Second District	
Dr. Bettie Rose Horne	Third District	July 1, 2008
Vacant	Fourth District	
Mr. James Sanders	Fifth District	July 1, 2008
Mr. Hood Temple	Sixth District	July 1, 2010
Dr. Louis B. Lynn	Research Universities	July 1, 2008
Col. John T. Bowden	Teaching Universities	July 1, 2008
Mr. Neal Workman	Technical Colleges	July 1, 2006
Dr. Mick Zais	Independent College President	July 1, 2006

Fourteen members are appointed to the Commission including: for 4-year terms—1 at-large appointee serving as Chair; 3 at-large, statewide appointees; and 1 appointee from each of the six Congressional districts, and for 2-year terms—1 representative each from the Board of Trustees of a research institution, a comprehensive college, and a technical college and 1 president of an independent college. Members are appointed by the Governor upon the advice and consent of the Senate, except for Congressional District Representatives who are recommended by their legislative delegations.

FINANCE & FACILITIES COMMITTEE MEMBERSHIP

As of October 2006

Mr. Daniel Ravenel, Chair

Dr. Douglas Forbes

Dr. Louis B. Lynn

Mr. James Sanders

Mr. Kenneth Wingate

Mr. Neal Workman

FACILITIES ADVISORY COMMITTEE MEMBERSHIP

The Facilities Advisory Committee is comprised of institutional facilities officers. The Committee meets throughout the year to review current policies and procedures and make recommendations as deemed necessary. This process ensures campus facilities across the State can support institutional goals and objectives as related to articulated missions.

Col. Don Tomasik
VP for Facilities
The Citadel

Mr. Bob Wells
Chief Facilities Officer
Clemson University

Dr. Richard Weldon
VP for Administration & Finance
Coastal Carolina

Ms. Monica Scott
Special Assistant to the President
College of Charleston

Mr. Ralph Davis
Director of Facilities Management
Francis Marion University

Mr. Jeff Beaver
Director of Engineering Services
Lander University

Mr. John Malmrose
Interim Director of Planning & Special Projects
Medical University of SC

Ms. Betty Jenkins
Facilities Program Manager
S.C. State University

Mr. Charles Jeffcoat
Dir. Campus Planning & Construction
USC Columbia

Mr. Tony Ateca
Director of Facilities
USC Aiken

Mr. Mike Parrott
Facilities Director
USC Beaufort

Mr. Rick Puncke
Director of Facilities
USC Upstate

Mr. Walter Hardin
Associate VP, Facilities Management
Winthrop University

Ms. Judy Hrinda
Associate VP for Finance
State Technical College System

Mr. Bruce Blumberg
Dir. of Finance & Admin. Ser.
USC Sumter

Mr. Dennis Rogers
VP for Admin. Services
Aiken Technical College

Mr. Tuck Hanna
Director of Facility Resources
Greenville Technical College

Mr. Dale Wilson
Chief Facilities Officer
Piedmont Technical College

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OVERVIEW

The role and responsibilities of the Commission on Higher Education (CHE or the Commission) in reviewing facilities projects was first established in the Commission's enabling legislation in 1967. The Commission is charged with examining the State's institutions of higher learning relative to both short- and long-range programs and missions, including capital funding requirements. The CHE is also charged with making recommendations to the Governor's Office, the Budget and Control Board, and the General Assembly as to policies, programs, curricula, facilities, administration, and financing of all State-supported institutions of higher learning.

Any state agency seeking approval of funding for permanent improvement projects by the General Assembly must submit requests for these projects to the Joint Bond Review Committee (JBRC) and to the Budget and Control Board (B&CB) for review and approval. Section 2-47-40 of the SC Code of Laws requires institutions of higher education submit plans for permanent improvements, proposals, and justification statements concerning permanent improvements to the CHE whether through its staff or the established Committee and Commission. Further, the CHE is required to forward each plan and any supporting documentation received from each institution to the JBRC and the B&CB. The CHE will attach its comments and recommendations on each plan with overall summary comments and recommendations on the plans considered in the aggregate.

Section 2-47-30 of the SC Code of Laws requires the JBRC "*review, prior to approval by the Budget and Control Board, the establishment of any permanent improvement project and the source of funds for any such project not previously authorized specifically by the General Assembly.*" This means that any proposal for the use of any funds on any project not authorized specifically by an act of the General Assembly is subject to this process. Revisions in the scope of previously authorized projects are also subject to this review and approval process. The first year of the Comprehensive Permanent Improvement Plan (CPIP) is designed to obtain such necessary approvals in one annual event covering at one time an agency's expectations for permanent improvements for the first year of the plan. The second year of the CPIP represents an agency's requests for Capital Improvement Bond (CIB) funds, and the third, fourth, and fifth years indicate an agency's planned facilities projects in those years. The CPIP of each higher education institution is to be submitted through the CHE which reviews and forwards its recommendations to the JBRC and the B&CB.

Notwithstanding the fundamental purpose of the CPIP program, practice has been such that interim consideration of projects that are critical, or permanent improvement projects which are unanticipated, takes place throughout the year. These requests are also submitted to the JBRC and the B&CB through the CHE.

GENERAL POLICY

In reviewing permanent improvement project requests, the CHE places general emphasis on the following: consistency with institutional mission, needs assessment, alternatives to meeting needs, and the proposal for addressing the needs. While the law does not specifically require the consideration of cost or the source of funds, the CHE also considers these factors as integral components of the overall projects.

Permanent improvement projects requiring CHE approval include, but are not limited to,: the acquisition of land and buildings (disposal of such requires only notification in writing), new construction, renovation, repair, maintenance, alteration, or demolition of existing facilities where the total project cost is equal to or exceeds \$500,000, any architectural and engineering work which is intended to result in a permanent improvement, capital lease purchase of any facility acquisition or construction, and equipment that either becomes a permanent fixture of a facility or does not become permanent but is included in the construction contract.

Each new lease, at a total annual cost of \$25,000 or more and for a term of three or more months, requires CHE review and approval. Subsequent renewals, which are not included in the initial lease negotiation, are treated as new leases and also require CHE approval. Each request for solicitation of space made to the leasing office of the State Building and Property Services of the Budget and Control Board is to be submitted concurrently to the CHE. The leasing office will not conduct a solicitation without the approval of the CHE. Approval to solicit does not constitute final authorization from the CHE to execute a lease.

The acquisition, construction, or leasing of facilities in the SC Research Park System and in out-of-state and off-shore locations (including foreign countries) must follow the normal approval processes of the CHE and other State agencies.

The CHE is committed to the development of policies and research of data that will further enhance the permanent improvement approval process while also considering the best interests of the State. The CHE has adopted policies concerning life-safety issues and architectural and engineering projects and considers other State agency priorities regarding permanent improvement projects.

The CHE maintains the CHE Management Information System (CHEMIS) which consists of several components of State institutional data, one of which is the Facilities component. The Facilities component is comprised of detailed building and room records for each public college and university in the State. These records are updated each fall and published in a series of reports for evaluation, assessment, and planning purposes. Additionally, the funding methodology used by the CHE to determine each institution's Mission Resource Requirement (MRR) uses the data, in part, for the calculation of maintenance and operations of physical plant.

DEFINITIONS & POLICY DETAIL

► PERMANENT IMPROVEMENT PROJECTS

Permanent improvements are defined as:

1. any acquisition of land, regardless of cost;
2. any acquisition, as opposed to the construction, of buildings or other structures, regardless of cost;
3. construction of facilities and any work on existing facilities including their renovation, repair, maintenance, alteration, or demolition in those instances where the total cost of all work involved is \$500,000¹ or more;
4. architectural and engineering and other types of planning and design work, regardless of cost, which is intended to result in a permanent improvement project. Master plans and feasibility studies are not permanent improvement projects and, therefore, are not to be included;
5. capital lease purchase of any facility acquisition or construction; and
6. equipment that either becomes a permanent fixture of a facility or does not become permanent but is included in the construction contract.

Any permanent improvement project that meets the above definition must become a project regardless of the source of funds. However, an institution of higher learning that has been authorized or appropriated capital improvement bond funds, capital reserve funds, or State-appropriated funds, or State infrastructure bond funds by the General Assembly for capital improvements shall process a permanent improvement.

These definitions focus on the significance rather than on the types of improvements being made. Significance is measured primarily in terms of the magnitude of funds being spent. For example, a \$500,000 renovation is considered significant as is a \$500,000 project to replace a roof.

The State Board for Technical and Comprehensive Education (SBTCE) and the technical colleges are eligible to receive State funds for capital facilities. Section 50-53-57 requires that SBTCE shall obtain and transfer to the State Treasurer a certificate from the appropriate official at the technical college stating that a minimum of 20 percent of each project cost has been provided by the local support area. Amounts above 20 percent are subject to the Commission's approval process. Section 59-101-370 exempts funds for deferred maintenance and renovations.

¹The \$500,000 cut-off level in the definition of a permanent improvement is subject to adjustment by the joint action of the Joint Bond Review Committee and the Budget and Control Board.

► PERMANENT IMPROVEMENT PROGRAMS

Two methods are used by the institutions in requesting permanent improvements. These are the Comprehensive Permanent Improvement Plans (CPIP) and Master Land Acquisition Plans (MLAP).

Comprehensive Permanent Improvement Plan (CPIP)

Each institution responsible for providing and maintaining physical facilities is required to submit a CPIP describing its physical work program for Year One, its requests for Capital Improvement Bond (CIB) funding in Year 2, and its tentative work plan for three years into the future for a total of five years. The CPIP should be submitted to the CHE by June 1 of each year.

Year 1 of the CPIP should cover one fiscal year, from July 1 to June 30, and should include all permanent improvement projects (as previously defined) expected to be implemented with funds already available or funds expected to become available that fiscal year. The purpose of Year 1 of the CPIP is to focus into one event each agency's expectations for permanent improvements for the year except for emergencies and other unanticipated critical needs. The first year of CPIP excludes new requests for capital improvement bond funds.

Year 2 of the CPIP includes an institution's request for CIB funding for the fiscal year. When requested by the Budget and Control Board and the Joint Bond Review Committee, any State institution seeking new authorizations which would make additional funds available for permanent improvement projects by the General Assembly must submit these requests for Year 2 of the CPIP through the Commission to the Joint Bond Review Committee and to the Budget and Control Board for review and approval. The CHE must forward each plan and any supporting documentation received from every institution to the Board and to the Committee. The CHE will attach its comments and recommendations on each plan and with overall summary comments and recommendations on the several plans considered in the aggregate.

Although institutions seeking permanent improvement project funding are required to submit CPIPs covering five fiscal years, emphasis, as a practical matter, is on the first and second years of those plans. Project proposals in Years 1 and 2 should be described in much greater detail than those proposed for Years 3, 4, and 5. Projects proposed for the first two years must be described in enough detail to allow a reviewer to gain a clear understanding of what the proposed projects are and why they are needed. It is especially important projects that are proposed to be financed by CIBs be fully and clearly described because these proposals are treated as requests for bond authorizations. Only projects which are proposed for Year 2 of the CPIP will be considered by the Commission for recommendation to the General Assembly for CIB funds. Projects proposed for plan Years 3, 4, and 5 may simply be listed with an estimate of costs and an indication of the anticipated source of funds.

Master Land Acquisition Program (MLAP)

Any public college or university seeking authorization to acquire land will be permitted to present master plans that outline proposed land acquisitions to the Commission for conceptual approval. The granting of conceptual approval shall be good for an initial five-year period and may be renewed by action of the Commission. If the plan is endorsed by the CHE, then future land acquisitions, provided they were included in the master plan presentation and had received State Building and Property Services acceptance of the environmental study and appraisal, and provided no student fee increase is required, will be considered by the CHE staff and will not require additional review by the Commission. Any acquisition activity is presented quarterly, for information, to the Commission's Finance & Facilities Committee.

Interim Permanent Improvement Project Approvals

During the fiscal year after the CPIP has been approved by the Commission, an institution may, on occasion, need to amend its program to cover emergencies and unanticipated critical needs. Projects submitted for interim approval are subject to the same requirements that are applicable to the CPIP. Projects submitted for interim approval will be considered on alternate months according to the CHE meeting schedule. Interim projects of \$500,000, or increases up to \$500,000 or 10% of the total budget, whichever is greater, may be approved by CHE staff. All interim projects greater than \$500,000, or increases greater than 10% of the total budget, are subject to action by the full Commission. Project close-outs and changes in funding sources, regardless of the amount, are also approved by CHE staff. Projects approved by the CHE staff will be submitted to the Commission on a quarterly basis.

Emergency Requests

Section 11-35-1570 of the SC Code of Laws provides guidance for making emergency requests. It states: *“Notwithstanding any other provision of this code, the chief procurement officer, the head of a purchasing agency, or a designee of either officer may make or authorize others to make emergency procurements only when there exists an immediate threat to public health, welfare, critical economy and efficiency, or safety under emergency conditions as defined in regulations promulgated by the board; and provided, that such emergency procurements shall be made with as much competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.”*

Accordingly, emergency requests will be considered in a timely manner only after written notification as to the nature of the emergency is received by the CHE.

Leases

A lease, as defined by the South Carolina Treasurer’s Office, is a signed agreement by an institution that commits an institution to future payments for the use of property. Each lease, including renewals, with a term of three or more months in a single fiscal year and at a total annual cost of \$25,000 or more must be approved by the Commission. CHE staff may approve leases from \$25,000 up to and including \$100,000. All leases over \$100,000 are subject to action by the full Commission.

Lease requests must be submitted concurrently to the CHE and to the Leasing Office of State Building and Property Services. The CHE staff validates the programmatic need for the lease and verifies the source of funds. The Leasing Office assists the institution with meeting the need and by ensuring the rate and terms of the lease are fair. The Leasing Office will not conduct a solicitation without the approval of the Commission. Approval to solicit does not constitute final authorization from the Commission to execute a lease. Once the Leasing Office has agreed on the terms of the lease, the lease is submitted to the CHE for approval to be executed by either the staff or the Commission.

Acquisition of Facilities by Private Foundations and Other Agents

The 1987 General Assembly amended Section 11-35-40 of the 1976 Code to make the South Carolina Consolidated Procurement Code applicable to certain actions of foundations and eleemosynary organizations. The Commission’s policy concerning the acquisition of facilities is consistent with the intent of the 1976 Code as amended. The policy requires the acquisition of any facility or permanent improvement (as previously defined) by a foundation or eleemosynary organization (including an Area Higher Education Commission or an Area Technical Education Commission) or any other

agent (henceforth referred to as foundation) on behalf of or for the use of any public institution of higher education which involves the use of public funds in the acquisition, financing, construction, maintenance, or current or subsequent leasing of the facility must have prior approval of the CHE. Regardless of the source of funds, failure to obtain Commission approval prior to taking occupancy of the facility or permanent improvement for institutional purposes will result in the disqualification of that facility or permanent improvement from being considered for funding through the MRR. Failure to establish these requests according to the guidelines for permanent improvement projects is a violation of the Procurement Code.

Further, a permanent improvement acquired by a foundation on behalf of an institution and intended solely for resale or investment purposes need not be approved by the CHE. However, if after the acquisition, the intended use changes and the institution plans to use the facility, CHE approval is required prior to taking occupancy of the facility for institutional purposes. Failure to obtain CHE approval will result in the disqualification of the facility or permanent improvement from being considered for funding through the MRR.

Acquisition of Real Property Building Condition Assessment

It is the policy of the Budget and Control Board that a decision to acquire an existing building intended to be occupied by State employees or the public shall be supported by an assessment of the current condition of the building and its suitability for its proposed use(s). Any agency proposing to acquire a building shall first obtain or develop a Phase I Building Condition Assessment for State Building Acquisitions on the subject building prior to submitting its request for acquisition to the Board.

Guidelines for Obtaining Building Condition Assessments

- The Office of State Engineer shall recommend one or more firms to provide these services for a period of one to three years, at which time the process of requalification will be repeated.
- The agency head shall give due consideration to the assessment being conducted by a professional architect, professional engineer, and/or other qualified specialist in the field of building condition assessments, as recommended by the Office of State Engineer, or may determine the assessment can be conducted internally.
- The costs of acquiring all assessments shall be the responsibility of the agency proposing to acquire the building.
- The complete assessment report shall be furnished by the agency to the State Engineer, who will provide the results to the Capital Budgeting and the Budget and Control Board for their consideration in the decision-making process.

Criteria for Building Condition Assessments

- All Building Condition Assessments obtained under this policy shall be done so in accordance with the current codes adopted by the Office of State Engineer.
- Upon completion of the Phase I assessment, a report will be submitted in the form of Table of Contents and Report Format for Phase I Building Condition Assessments for State Building Acquisitions (see Appendix I).
- The report submitted at the completion of the Phase I assessment may include a professional opinion as to whether the building appears to be code compliant for its existing and proposed use(s), or, if not, provide specific recommendations for detailed investigations to be carried out in a Phase II assessment. The report shall also include an estimated cost to perform the recommended Phase II assessment, if any.
- In the event the Phase I assessment indicated that the building is not code compliant, the State Engineer may require the agency to obtain the recommended Phase II assessment.

- The Phase II assessment shall provide a summary of work and preliminary cost estimate of work required to make the building compliant with the current codes.
- The State Engineer may provide a recommendation along with the assessment(s) to be submitted to Capital Budgeting for inclusion with the acquisition request. The recommendation will be based, in part, on the results of the assessments obtained under this policy.

Routine Repair, Replacement, and Maintenance

Routine repair, replacement, and maintenance projects may be submitted to the CHE staff at any time. These projects will be approved at staff level and presented to the Commission in summary form at the next scheduled CHE meeting. However, even though a project may fall within the technical definitions outlined below, if the staff believes that particular characteristics of a project require further consideration, the staff will refer that project to the full review and approval process of the Finance & Facilities Committee and the Commission.

The following examples illustrate the types of projects that are considered to be routine repair, replacement, and maintenance of existing facilities:

1. Roof repair/replacement
2. Building system modifications (HVAC, plumbing, electrical, etc.)
3. Interior refurbishment without major reconfiguration of interior space
4. Exterior refurbishment (waterproofing, window replacement, etc.) excluding additions beyond approximately 1,000 sq. feet
5. Renovation of \$500,000 or more that does not result in major building use change or additions beyond approximately 1,000 sq. feet
6. Code compliance (ADA, elevator, fire, electrical, etc.)
7. Infrastructure modifications/replacement (communications systems, sewers, waterlines, steam lines, etc.)

PROCEDURES

► SUBMISSION OF REQUESTS

All requests must be transmitted by letters signed by the president (or his designee) of the institution or, in the case of the University of South Carolina and the State Board for Technical and Comprehensive Education, by the chief executive officer (or designee) of the system.

Submission of Permanent Improvement Project Requests

All requests for permanent improvements must be submitted in duplicate by the institution to the CHE prior to being sent to the staff of the Budget and Control Board. After consideration, the requests, along with the Commission's recommendations, will be forwarded to the appropriate staff of the Budget and Control Board.

Each request submitted to the CHE for action must include the appropriate Budget and Control Board form. The types of requests and the forms required for the requests are listed below:

<u>Type of Request</u>	<u>Required Form</u>
Interim Request – New Project	A-1
Modify Existing Project	A-1
Additional Annual Operating Costs or Savings	A-49

*For CPIP forms, refer to the Capital Budget Unit of the Office of State Budget's website:
<http://www.budget.sc.gov/OSB-cbu-forms.phtml>

Each request must include the following, if applicable:

1. **Project Name Identifier** – A proposed project name should be included. It should tell where the project is, which facility is involved, and what the project involves. It is essential that the facility or facilities affected by the project be identified clearly. If more than one facility is involved in the project, allocate and identify the costs of the project amount to each facility.
2. **Project Priority** – Show the relative importance of the project among all projects proposed. If submitted as part of a project, indicate its priority within the group.
3. **Project Description** – Classify the project into one of these categories:
 - Architectural and Engineering
 - Routine Repair, Replacement, and Maintenance
 - Purchase Land/Building
 - Construction
 - Demolish Existing Facilities
 - Repair/Renovate Existing Facilities

A general description of the proposed project should be provided. This should be descriptive enough to give readers a clear understanding of the project. Include specifics such as the total square footage or acreage involved and the estimated cost of major elements of the project. Include square footage of major elements of the proposed project and designate the space as either educational and general (E&G) or non-E&G. In the event the project consists of both E&G and non-E&G space in the same facility, identify the portion that is E&G and the portion that is non-E&G. Attach a map showing the location of the project and include the other requested site location data. You should also describe the relationship of the proposed facility to the campus CPIP, if appropriate.

4. **Mission** – Explain how the project is consistent with the mission of the institution as approved by CHE and how the project is consistent with the objectives of the program or activity.

5. **Justification** – Include a justification for the project. The justification should relate the project to long-term plans, programs, and needs of the institution. Identify the specific academic, research, or public service program that will be served by the project. Include a projection of the number of additional students to be served, services to be provided, or new programs to be initiated. Include a summary of the criteria used, including, but not limited to the details of specialized accreditation requirements, if appropriate, and of recognized standards for this type of facility and program. If such requirements or standards do not apply, explain the criteria used to determine the scope of the project. Relate the proposed project to the appropriate space utilization report.

If the proposed project is part of larger project, or if the proposed project completes or complements another project authorized earlier, explain fully the relationship of the proposed project to the whole.

If appropriate, cite regulatory measures addressed by the proposed project relative to health or safety, energy conservation, or other Federal or State requirements such as building or fire codes.

If the project represents the proposed acquisition of land or buildings, an acceptable appraisal, environmental study, asbestos certification, and Certificate of Acceptance must be included with the submission.

6. **Alternatives** – State the alternatives to this project that were considered. Describe any other means of meeting the needs identified which were considered and discarded. Outline any relationships between this project and any other project being proposed or to be proposed. Indicate the effect on the services or activities of the institution if the request is not approved.

7. **Estimated Project Costs** – Include details of estimated costs and sources of revenue for the project. Indicate the methods used to determine cost estimates. Provide an estimate of additional costs that may occur if the implementation of the programs or construction of facilities is delayed.

8. **Additional Operating Costs** – Estimate the additional cost of building maintenance, utilities, and other operating costs that this project would generate.

9. **Project Schedule** – Identify the project's relation to or dependence upon other current or future capital improvement projects. Estimate the schedule to complete the physical planning, bidding, construction, and equipment phases for occupancy.

10. **Proposed Sources of Funds** – List the proposed sources of funding for the project by category:

- Capital Improvement Bonds
- Tuition Bonds
- Revenue Bonds (housing, stadium)
- Excess Debt Service (tuition, parking, housing, plant improvement)
- Appropriated State Funds
- Federal Funds (describe)
- Athletic Funds
- Other (Identify)*

**If private or other third-party funds are involved, appropriate documentation that such funds are in-hand or guaranteed must be provided.*

Submission of Lease Requests

All requests for leases must be submitted concurrently by the institutions to both the CHE and the Leasing Office of the State Building and Property Services. A description of the lease and a copy of the fully prepared but unsigned lease document must accompany the request.

Include the following documentation along with the lease request:

1. **Justification** – Provide a justification for the lease. Describe the programmatic need the lease is expected to meet. Explain how the lease is consistent with the mission of the institution as approved by the Commission and how it is consistent with the goals and objectives of the program or activity requiring the lease.
2. **Alternatives** – List any alternatives to the lease that were considered. Describe any other means of meeting the programmatic needs that will be met by the lease.
3. **Source of Funds** – Identify the source of funds to be used for the lease. If private or other third-party funds are involved, provide appropriate documentation that such funds are in-hand or guaranteed.

Presentation of MLAPs to the Commission for Conceptual Approval

All requests to present MLAPs must follow the usual schedule for interim approvals except for the March/May/June time period reserved for CPIPs. Upon conceptual approval of the MLAP by the Commission, individual land acquisition projects may be formally established by submitting the appropriate documentation to CHE staff. Once State Building and Property Services acceptance of the environmental study and approval has been received, and CHE staff confirms that no student fee increase is required, the request will be forwarded to the Budget and Control Board with a positive recommendation.

Permanent Improvement Project Schedule

1. Schedule for institutional submission of CPIP to the CHE:

<u>CHE Staff</u>	<u>CHE Finance and Facilities Committee</u>	<u>Commission on Higher Education</u>
March 1 (Projects greater than \$500,000)	May	June 1
March 1 (Projects less than \$500,000)	May (as information)	--
June 1	(Complete CPIP Document Due to B&CB)	

2. Schedule for Interim Approvals

The schedule for interim approvals is posted in the “For Institutions—Facilities” section of the CHE website each January. Generally, the Finance and Facilities Committee meets every other month to consider interim capital projects for recommendation to the Commission. Institutions should refer to the schedule to see submission deadlines in order to meet their individual timelines.

3. Schedule for Approval of MLAP

MLAPs may be considered along with interim capital project approvals – generally every other month.

*General Note: Any project requiring only staff action will be considered within 15 working days of receipt, assuming all required information has been provided. Projects that require interim approval by the Committee on Finance and Facilities and the Commission will be considered quarterly as indicated on the above schedules.

OTHER RELATED POLICIES

South Carolina Research Park System

The Research Authority has set up the Research Park System in order to meet its legislative mandate to enhance the research capabilities of the State's public and private universities, to establish a continuing forum to foster greater dialogue throughout the research community within the State, and to promote the development of high technology industries and research facilities in South Carolina; to enhance the potential for private support for South Carolina colleges and universities, to promote cooperative research efforts between the private sector and South Carolina universities and colleges, and to strengthen the partnership among state government, higher education, and business and industry; to foster the perception of South Carolina as an international leader in idea generation and the development, testing and implementation of new advances in science and technology; and its legislative direction that the authority shall operate research parks in cooperation with institutions of higher learning in South Carolina. The CHE has responsibility for the approval of facilities of the institutions of higher learning in the State, prior to review by the Joint Bond Review Committee and the Budget and Control Board.

The Commission's policy with respect to facilities in the research parks of the State shall be as follows:

1. In the event that the facility is intended solely for use by the institution of higher learning for instructional/research purposes, the facility will qualify for capital funds and/or lease funds and operation and maintenance funds generated through the MRR in the amount of 100 percent of the MRR-generated sum.
2. In the event the facility is intended partially for use by the institution of higher learning and partially for use by outside parties, the facility should qualify for capital and/or leasing funding in a proportion to the use by the institution of higher learning for instructional and research purposes and shall qualify for operation and maintenance funds generated through the MRR in proportion to the use by the institution of higher learning for instructional/research purposes.
3. In the event that the facility is intended for use totally by outside parties, the facility shall not qualify in any way for capital and/or lease funding and shall not qualify for operation and maintenance funding under the MRR.
4. The institutions of higher learning shall annually furnish to the CHE appropriate data to support the request for capital and/or lease funding and for funds for operation and maintenance.

Acquisition, Operation and Maintenance, and Lease of Out-of-State and Off-Shore Facilities

Acquisition of facilities in out-of-state and offshore locations must follow the normal approval processes of the CHE and other State agencies. Acquisition, operation and maintenance, and lease funds will not be recommended through the physical plant step of the MRR unless and until the facility has been leased or operated by the institution for at least three years immediately prior to inclusion in the MRR.

Permanent Improvement and Lease Requests of Technical Colleges

Notwithstanding any review that may be required by the State Board for Technical and Comprehensive Education (SBTCE), the CHE review and approval is mandatory for the following unless otherwise exempted elsewhere in this document:

1. Any leases of land, buildings, or other structures including subsequent amendments and/or renewals;
2. Any acquisition of land, buildings, or other structures;
3. The construction of additional facilities or additional square footage to an existing facility including any subsequent project changes;
4. Any renovation project designed to accomplish space reconfiguration and/or space use change; and
5. Any separate architectural and engineering or design work that could eventually require Commission review as a permanent improvement.

Any project for maintenance and repair shall be excluded provided that it is of a routine nature and represents work contained in the institution's ongoing maintenance cycle.

The SBTCE and the technical colleges are eligible to receive state funds for capital facilities. Section 59-53-57 of the South Carolina Code of Laws requires the SBTCE to obtain and transmit to the State Treasurer a certificate from the appropriate official at the technical colleges stating that a minimum of 20 percent of each project cost has been provided by the local support area. Amounts above the required 20 percent are subject to the CHE's approval process. The provisions of this paragraph do not apply to Denmark Technical College and Technical College of the Lowcountry. Section 59-101-370 exempts deferred maintenance and renovation projects from the 20 percent requirement at these institutions.

The CHE staff will not review nor submit to the Finance & Facilities Committee or the Commission for review any permanent improvement project or lease request that has not been reviewed and approved by the SBTCE.

APPENDICES

►APPENDIX A—COMPREHENSIVE PERMANENT IMPROVEMENT PLAN (CPIP)

The annual CPIP is the primary vehicle for submitting capital improvement projects to the CHE. The Commission expects institution to be as inclusive as possible when completing CPIP forms. In Year 1, institutions should include any capital improvement projects, both new and increases to existing projects, for which the institution has or can reasonably expect to obtain funding in the first fiscal year of the plan.

In Year 2 of the CPIP, institutions should include only those capital improvement projects for which the institution is requesting funds. In Years 3, 4, and 5, institutions should include projects planned for those years.

CPIP forms are mailed to the institutions from the Property Management Division of the Budget and Control Board. All CPIPs for projects regardless of total project cost are due to the CHE no later than March 1.

Institutions should provide one (1) hard copy and one (1) electronic copy of the CPIP document to CHE. The unbound original document and three (3) hard copies, along with an electronic version, are to be submitted to the Capital Budgeting Unit of the Office of State Budget.

Year 2 CPIP rating criteria

Year 2 CPIP projects represent an institution's request for CIB bond funds for that year. The projects included in Year 2 will be evaluated and scored by CHE prior to submission to the Legislature with recommendations for funding. The criteria used by CHE to evaluate and score Year 2 projects is listed in Appendix B.

Pursuant to Section 2-47-40, the CHE is required to submit recommendations to the General Assembly including all of the permanent improvement projects requested by the institutions listed in the order of priority deemed appropriate by the CHE without regard to the sources of funds proposed for the financing of the projects requested.

► APPENDIX B—CAPITAL FUNDING GOALS, CRITERIA, EVALUATION METHOD

SOUTH CAROLINA COMMISSION ON HIGHER EDUCATION CAPITAL FUNDING GOALS FOR PUBLIC HIGHER EDUCATION INSTITUTIONS

The following goals have been formulated to guide the Commission on Higher Education in making capital funding recommendations to the Governor and the General Assembly.

STATEWIDE GOALS

- To ensure campus health and safety by supporting projects designed to remedy existing issues that adversely affect human well being
- To address critical deferred maintenance needs of the institutions, thereby protecting the State's capital investment in higher education
- To alleviate problems resulting from critical enrollment and/or programmatic growth, including needs for state-of-the-art academic space
- To support needs that are significant to continuing economic development in the state or service area

Points will be assigned on related standards and rating criteria. A maximum of 100 points may be generated through related standards and a maximum of 100 points may be generated through the rating criteria. Projects will be rated according to the total combined number of points generated up to a maximum of 200 points.

SECTION I – RELATED STANDARDS

Each proposed project will be reviewed and rated for consistency and compatibility with the following related standards:

STANDARD 1. The degree to which the proposed project is critical and central to the institution's approved mission. (up to 24 points)

EVALUATION

- a. Evaluated against approved mission statement augmented by institution data if available.

STANDARD 2. The degree to which the proposed project's ultimate outputs (e.g., degrees awarded by discipline, number of graduates, type and volume of research, etc.) are adding critical capacity and functionality to address defined state needs. (up to 24 points)

EVALUATION

- a. Academic space per FTE and/or Sq Ft of research space per research \$ expended, augmented by institutional data if available.
 - i. Equal to or under standard plus confirming documentation = 24
 - ii. Equal to or under standard but no confirming documentation = 20
 - iii. Over standard plus confirming documentation = 20
 - iv. Deferred Maintenance, multiple buildings = 12
 - v. Over standard but no documentation or documentation N/A = 0

STANDARD 3. The degree to which the need for the quantity and type of space can be defended through the application of objective space analysis, including space guidelines and appropriateness of offerings. (up to 20 points)

EVALUATION

- a. Measured against fall 2006 space factor for classroom utilization, augmented

by institutional data if available (studies showing that additional space or different space is needed)

- i. Under standard plus confirming documentation = 20
- ii. Over standard plus external documentation of library deficiencies = 20
- iii. Over standard plus confirming documentation = 12
- iv. Under standard, no documentation = 10
- v. Deferred Maintenance, multiple buildings = 6
- vi. Over standard but no documentation or documentation N/A = 0

STANDARD 4. The degree of non-capital improvement bond funding included in the project and/or documented savings and/or operational cost increase avoidance. (up to 12 points)

EVALUATION

- a. Information from CPIP, augmented by data provided by institution if available
 - i. Documented external funding of 25% or more + operational savings = 12
 - ii. Documented external funding of 25% or more of total request = 10
 - iii. Documented external funding <25% = 8
 - iv. Expected operational savings only = 6
 - v. Deferred Maintenance, multiple buildings = 6

STANDARD 5. The proposed project is consistent with the institution's Facilities Master Plan. (up to 10 points)

EVALUATION

- a. Verification that project is included in master plan and how it relates to the overall plan
 - i. Both verifications = 10
 - ii. One of the above = 7

STANDARD 6. Documentation that all alternatives have been explored and that the proposed remedy is the best option available. (up to 10 points)

EVALUATION

- a. Documentation included in CPIP – 10
- b. Information from CPIP – i.e., if renovation possible but not considered in new construction – 5

Maximum Points for Standards = 100

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SECTION II – RATING CRITERIA

HEALTH & SAFETY (up to 25 points)

1. The degree to which an existing condition can be documented to be unsafe and unhealthy for human well being.

EVALUATION

- a. Verified by external study or institutional evaluation:
 - i. Air quality issues or code issues accepted previously (no external study) = 5.00
 - ii. Air quality, or other code issues (external study) = 6.00
 - iii. Citations for air quality, serious code issues or serious life safety issues (external study) = 8.34*
- *(to qualify for points in 2 & 3 below, institution must receive maximum here)*

- 2. The appropriateness of the proposed solution to the defined health or safety issue.**

EVALUATION

- a. Direct institutional verification or in CPIP (only if maximum points in 1a)

- 3. The degree that the institution's and the State's well being would be adversely impacted through discontinuance of activities if the defined health and safety issues are not addressed.**

EVALUATION

- a. Information from CPIP, studies on file at CHE, and institutional documentation if provided (only if maximum points in 1a)
i. Institutional verification that activities could not be conducted in alternate facilities so as to require discontinuance/or deferred maintenance = 8.33

DEFERRED MAINTENANCE (up to 25 points)

- 1. The degree to which the proposed project addresses deferred maintenance needs as reported in the institution's CHEMIS submission using a rolling average over the most recent three-year period.**

EVALUATION

- a. Information will be obtained from Building Data Summary, generated by CHEMIS. Points assigned based on range of building condition codes (below):

<u>Building Condition Code</u>	<u>Points Assigned</u>
90-100	0
80-89	5
70-79	10
0-69	12.5
Infrastructure/Def. Maint. (multiple buildings)	12.5
New Construction or N/A	0

- 2. The degree to which the institution's expenditures for building maintenance compare with the amount generated for building maintenance¹ in the MRR (according to the percent funded) using a rolling average for the most recent three-year period.**

EVALUATION

- a. Institutions report amount expended for routine maintenance (from any source) for E&G Buildings. Data will be compared with the amounts generated by MRR (at the percent funded) and averaged for the most recent three-year period.
i. Expenditure for E&G maintenance equal to or greater than MRR estimates = 12.5
ii. Expenditure not reported but data for estimate available to CHE = 12.5
iii. Expenditure less than MRR estimate or not reported and estimate not available = 0

ENROLLMENT & PROGRAMMATIC GROWTH (up to 25 points)

- 1. The degree to which a space shortage can be objectively supported through space analysis – both on an institutional macro level as well as the micro level of a particular program.**

EVALUATION

- a. Data to be supplied by institution

- i. External confirming documentation/data = 12.5
- ii. Internal confirming documentation/data = 10
- iii. Deferred Maintenance = 5
- iv. None Reported or N/A = 0

3. The degree to which the need for the outputs of the additional proposed space cannot be met through alternative delivery systems (e.g., distance learning technologies, etc.).

EVALUATION

- a. Data to be supplied by institution, if applicable.
 - i. If none can be met based on program of study or deferred maintenance = 12.5
 - ii. If all dedicated to distance learning = 12.5.
 - iii. If can be partially met = 8.5
 - iv. No documentation or N/A = 0

ECONOMIC DEVELOPMENT (up to 25 points)

1. The degree to which the proposed project can be shown to be consistent with the State's and/or service area's priorities for continuing economic development as defined by appropriate economic development entities (e.g., State, Local, or Regional Departments of Commerce).

EVALUATION

- a. Documented evidence – 8.34

2. The degree to which the proposed project is a critical component of an articulated State, regional, or community comprehensive economic development plan.

EVALUATION

- a. Documented evidence – 8.33

3. The degree to which the proposed project can be shown to be consistent with the State's and/or service area's priorities for continuing economic development as defined by appropriate economic development entities (e.g., State, Local, or Regional Departments of Commerce).

EVALUATION

- a. Documented evidence of funding amounts– 8.33

Maximum Points for Rating Criteria = 100

OTHER CONSIDERATION – Essential Sequencing of Multiple Projects

Projects that require a phasing sequence with other projects in the ranking list will be listed in the order required. An example of a phasing requirement would be a utility plant expansion request that would need to be completed before a new building request could come online due to insufficient existing utilities capacities. If the rankings established by the process outlined in this document do not place projects in the appropriate phasing sequence, then the project rankings will be revised accordingly. This would be accomplished by ranking all other projects involved in the phasing sequence behind the initial project. If the second project has a higher percentage point total, then it will be moved to immediately after the first project. The rationale would continue for the third and subsequent projects as necessary. *(This may be used for projects that have received partial funding and for which the institution can document a continuing critical need and/or to differentiate between projects that have the same scores.)*

If applied, based on previously funded by CIB = 2 to 5 additional points, based on documented CIB amounts

*If percentage of previous amount funded is greater than 25% of the current request = 5

*If percentage of previous amount funded is less than 25% of the current request = 2

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¹**Building Maintenance** is defined as the cost (including salaries, wages, supplies, materials, equipment, services, and other expenses) necessary to keep a building in good appearance and usable condition and prevent the building from deterioration once it has been placed in first class condition for that type and age of building. It does not include Auxiliary Enterprise buildings. Building Maintenance includes minor repairs and alterations, costs of materials, hire of personnel, and other necessary expenses for the repair and/or painting of the following: roofs, exterior walls, foundations, flooring, ceilings, partitions, doors, windows, plaster, structural ironworks, screens, windows shades, blinds, plumbing, heating and air conditioning equipment within or a part of the building, electric wiring, light fixtures (including the replacement of lamps), washing of all outside window surfaces, built-in shelving, and other related items.

A Few Notes About the Evaluation Method

- Institutions may determine the priority of the projects they have submitted through the CPIP process.
- Institutions will provide the appropriate documentation required by the rating criteria for all of the projects they choose to have included in the process. If appropriate documentation for one or more of the criteria has already been included in the original submission (CPIP), the institution will not have to resubmit the documentation. However, institutions should submit any additional documentation they believe would assist the CHE in determining that a criterion has been met.
- CHE staff will determine if the projects have met the basic criteria for rating and the degree to which the criteria have been met.

► APPENDIX C—MASTER LAND ACQUISITION PLAN (MLAP) POLICY

Institutions may present master plans that outline proposed land acquisitions to the Finance & Facilities Committee and the Commission for conceptual approval. The granting of conceptual approval shall be good for an initial five-year period and may be renewed by action of the Commission. If the plan is endorsed by the Commission, then future land acquisitions, provided they were included in the master plan presentation and had received Property Management acceptance for the environmental study and appraisal, and provided that no student fee increase is required, will be considered by the CHE staff and will not require additional review by the Finance and Facilities Committee or the Commission. CHE staff will report any acquisition activity to the Finance and Facilities Committee at least quarterly.

MLAP Schedules

All requests to present MLAPs to the Finance & Facilities Committee and the Commission must follow the usual schedule for interim approvals, excluding the April-June time period that is reserved for CPIPs. Upon conceptual approval of the plan by the Commission, components of the plan may be established as projects any time during the following five-year period according to the guidelines.

Guidelines for Submitting MLAP Requests

A. Plan Requirements:

The proposed MLAP should consist of a narrative report describing the MLAP including the following components:

- Include justification as it relates to current and long-term plans, programs, and institutional needs. Support this justification with available relevant and appropriate data.
- Indicate the physical impact the acquisition(s) will have on current master plan boundaries.
- State alternatives to purchasing the land that have been considered and any other means of meeting the needs identified which were considered and discarded. Indicate the effect on the services or activities of the institution if the plan is not approved.
- Provide a summary of land characteristics such as estimated total acreage, identified improvements including type of structure and estimated gross square footage (if applicable), location of land in relationship to the campus, and a clear map of the subject site that indicates this relationship and that can be easily duplicated for distribution to Commission members.

B. Submission of Project Requests:

In order to establish each component of an institution's approved MLAP as a project, each request must be transmitted with a letter signed by the president (or designee) of the institution or, in the case of the University of South Carolina and the SBTCE, by the chief executive officer (or designee) of the system. Each request must be submitted in triplicate to the CHE staff prior to being sent to the property management staff of the Budget and Control Board. CHE staff will review the request to determine that:

- (1) no substantive changes or student fee increases are involved; and
- (2) property management staff has confirmed that the environmental study and appraisal are acceptable and support the purchase price.

Once these criteria have been confirmed, CHE staff will forward a positive recommendation to the appropriate staff of the Budget and Control Board.

► APPENDIX D—POLICY FOR CONSIDERATION OF ROUTINE REPAIR, REPLACEMENT, & MAINTENANCE PROJECTS

Routine repair, replacement, and maintenance projects may be submitted to the CHE staff at any time. Staff will review requests for appropriate justification and fund source documentation. Projects meeting staff review and approval of this nature will be presented to the Commission in summary form at the its next meeting.

The following examples are provided to illustrate the types of projects that are considered routine repair, replacement, and maintenance of existing facilities. The list is illustrative and not intended to be exhaustive. However, even though a project may fall within the technical definitions outlined below, if the staff believes that particular characteristics of a project require further consideration, the staff will refer that project to the full review and approval process of the Finance & Facilities Committee and the Commission.

- Roof repair/replacement
- Building system modifications (HVAC, plumbing, electrical, etc.)
- Interior refurbishment without major reconfiguration of interior space.
- Exterior refurbishment (waterproofing, window replacement, etc.) excluding additions beyond approximately 1,000 square feet.
- Renovation of \$500,000 or more that does not result in major building use change or additions beyond approximately 1,000 square feet.
- Code compliance (ADA, elevator, fire, electrical, etc.)
- Infrastructure modification/replacement (communications systems, sewers, water lines, steam lines, etc.)

► APPENDIX E—LIFE-SAFETY MEASURES IN RESIDENTIAL FACILITIES

In February 1997, each institution with residential facilities was required to prepare a summary of the status of life-safety systems in those facilities and to prepare a plan to address any deficiencies in the systems. These plans were summarized and presented to the Commission.

In October 1997, the Commission adopted a recommendation that each institution be strongly encouraged to implement all life-safety measures outlined in their respective institutional plans, and that the institutions report to the Commission annually the status of these life-safety plans as part of the annual budget presentations. The CHE also adopted a recommendation that all auxiliary enterprise capital projects submitted for approval would be considered in relation to unmet needs of projects related to life-safety issues.

The CHE staff requests an update on institutional life-safety plans in March/April of each year. These updates are presented to the CHE for information.

►APPENDIX F—ARCHITECTURAL & ENGINEERING (A&E) APPROVAL POLICY

At a meeting on December 7, 1995, the Commission adopted the following policy regarding approval for expending funds for architectural and engineering (A&E) work associated with permanent improvement requests.

“Where no definite source of funds has been identified, no A&E work beyond the design development stage will be approved. Full A&E work will be approved only when a sufficient source of funds has been identified and the full project has received Commission approval.”

► APPENDIX G—APPLICATION OF TRUSTEE-HELD FUNDS IN CONNECTION WITH APPROVED CAMPUS-WIDE PERMANENT IMPROVEMENT PROJECTS

The following information is submitted by the State Treasurer's Office as Trustee for bond issues of the State and its colleges and universities.

There are two basic types of bonds/notes that may be issued for borrowings by public colleges and universities. These are State Institution Bonds and Revenue Bonds. State Institution Bonds are general obligations of the State and are additionally secured by a pledge of certain tuition fees collected by the borrowing institution. Chapter 107 (entitled State Institution Bonds) of Title 59, SC Code of Laws, is the primary governing statute concerning the issuance of State Institution Bonds. Revenue Bonds are the obligations of the Issuer/Institution and are secured by a pledge of the revenue generated by a facility or a group of facilities. The revenue-backed borrowings are generally associated with the auxiliary enterprise functions of the institutions. An example of this type of borrowing would be a Student Faculty Housing (SFH) Revenue Bond issued to construct a new dormitory with revenues from the new dormitory as well as revenues from the existing dormitories being pledged to the payment of all bond issues currently outstanding or subsequently issued.

In the State Treasurer's role as Trustee, it shares with the Issuer/Borrower the responsibility of maintaining compliance with the accounting and security requirements of the various governing statutes and bond resolutions. One aspect of this responsibility concerns the funding of approved permanent improvement projects. Essentially, all governing statutes and/or bond resolutions require that the facilities be maintained in good repair. This is generally required so that the facilities remain in a productive, income-earning status and produce the necessary revenues to enable the Borrower (the Issuer, i.e. the college or university) to repay the Lender (Investor/Bondholder).

Governing statutes and bond resolutions connect the specific facilities groups and their related revenues. To this end, the Treasurer's Office looks to fund auxiliary-related facilities projects with auxiliary-related revenues from those facilities. To accomplish this at each institution, the Other-09 fund source (maintenance reserve fund, capital reserve fund, improvement fund, etc.) for newer governing resolutions or the Excess Debt Service-04 fund source for some of the older governing resolutions are used. Similarly, any portion of tuition fees that are recognized as the portion collected for debt service on State Institution Bonds and deposited with the State Treasurer's Office that are not needed for debt service on State Institution Bonds may be utilized to fund Education and General projects in lieu of issuing State Institution Bonds. To accomplish this at each institution, the Other-09 fund source identified as Institution Capital Project Fund is used.

The forgoing assists the Treasurer's Office and the Issuer in ensuring that appropriate fund sources (revenues) pay for their appropriate facilities related projects. Similarly, it is expected that the fund sources utilized to pay for any broad campus-wide project(s) would be allocated on some fair and reasonable basis to ensure that revenues from the various types of facilities benefiting from the improvement would share proportionately in the total project costs. For example, if a new Replace Steam Line project would benefit two classroom buildings and one dormitory (all of equal size and utilization), then two-thirds of the estimated project cost should be absorbed by the Institution Capital Project Fund and one-third should be absorbed by the SFH Maintenance Reserve Fund. This allocation should be established at the initial stage of project planning and design and ultimately should be refined throughout the construction/completion phase as more accurate bases are developed.

►APPENDIX H—TABLE OF CONTENTS & REPORT FORMAT FOR PHASE I BUILDING CONDITION ASSESSMENTS FOR STATE BUILDING ACQUISITIONS

- A. Cover Sheet (to include agency name, building name, report date, and contact person)
- B. Table of Contents
- C. Introduction
 - 1. Purpose
 - 2. Special Terms and Conditions
 - 3. Limitations and Exceptions of Assessment
- D. Site Description
 - 1. Location and Legal Description (including, but not limited to, zoning, historic designation, and utilities)
 - 2. Site and Vicinity Characteristics (including, but not limited to, any standing or flowing water, known soil conditions, earthquake zone)
 - 3. Building Description (including, but not limited to, area, height, year constructed, year any conditions were built)
 - 4. Current Uses and Occupancy of the Building/Property
 - 5. Assessed Value of the Building
- E. Suspected Presence of Hazardous Materials
 - 1. Type of Hazardous Material
 - 2. Justification of suspected presence
- F. Investigations and Evaluations of Systems for Functionally and Compliance with Applicable Codes:
 - 1. Plumbing
 - 2. Fire Protection
 - 3. HVAC
 - 4. Electrical/Communications
 - 5. Structural/Seismic
 - 6. Building Accessibility
- G. Evaluations in Accordance with the International Existing Building Code (including Building Code Summary Sheet)
- H. Any Other Conditions of Concern
- I. Findings and Conclusions (including recommendations for Phase II Assessment, if any, and associated costs)
- J. Signatures of those performing the Building Condition Assessment
- K. Qualifications of those performing the Building Conditions Assessment
- L. Optional Appendices (for example):
 - 1. Other Plans, Figures, and Photographs
 - 2. Contract between User and those performing the Building Condition Assessment

Each item in the above Table of Contents should be addressed on each report. If the item is not applicable, or no information is available for the report, include the section title and then write “Not Applicable” or “No Information Available” below the title.

► APPENDIX I—LEGAL REFERENCES PERTAINING TO POSTSECONDARY EDUCATION FACILITIES

ROLE OF THE COMMISSION – TITLE 59, CHAPTER 103

Section 59-103-20: Studies of institutions of higher learning

The commission shall meet regularly and shall have the authority and responsibility for a coordinated, efficient, and responsive higher education system in this State consistent with the missions of each type of institution as stipulated in Section 59-103-15. In meeting this responsibility and in performing its duties and functions, the commission shall coordinate and collaborate at a minimum with the Council of Presidents of State Institutions, the council of board chairs of the various public institutions of higher learning, and the business community. The commission also is charged with examining the state's institutions of higher learning relative to both short- and long-range programs and missions which include:

(a) the role of state-supported higher education in serving the needs of the State and the roles and participation of the individual institutions in the statewide program;

(b) enrollment trends, student costs, business management practices, accounting methods, operating results and needs, and capital fund requirements;

(c) the administrative setup and curriculum offerings of the several institutions and of the various departments, schools, institutes, and services within each institution and the respective relationships to the services and offerings of other institutions;

(d) areas of state-level coordination and cooperation with the objective of reducing duplication, increasing effectiveness, and achieving economies and eliminating sources of friction and misunderstanding;

(e) efforts to promote a clearer understanding and greater unity and good will among all institutions of higher learning, both public and private, in the interest of serving the educational needs of the people of South Carolina on a statewide level.

Section 59-103-25: Publication of legislation; standing committees

The commission shall compile and publish legislation applicable to it so that the relationships among the commission, the governing bodies of public institutions of higher education, the General Assembly and the executive branches of government may be more clearly established and understood. The commission shall create from among its membership such standing committees as it may deem necessary. The creation of the committees and their duties shall be prescribed by a two-thirds vote of the membership of the commission. Special committees may be created and their duties prescribed by a majority vote of the membership of the commission.

Section 59-103-35: Submission of budget; new and existing programs

All public institutions of higher learning shall submit annual budget requests to the commission in the manner set forth in this section. The State Board for Technical and Comprehensive Education shall submit an annual budget request to the commission representing the total requests of all area-wide technical and comprehensive educational institutions. The budget submitted by each institution and the State Board for Technical and Comprehensive Education must include all state funds, federal grants, tuition, and fees other than funds derived wholly from athletic or other student contests, from the activities of student organizations, from approved private practice plans, and from the operation of canteens and bookstores which may be retained by the institutions and be used as determined by the respective governing boards, subject to annual audit by the State. Fees established by the respective governing boards for programs, activities, and projects not covered by appropriations or other revenues may be retained and used by each institution as previously determined by the respective governing boards, subject to annual audit by the State. The budget request for the public higher education system shall be submitted by the commission to the Governor and appropriate standing committees of the General Assembly in conjunction with the preparation of the annual

general appropriations act for the applicable year.

Supplemental appropriations requests from any public institution of higher education must be submitted first to the commission. If the commission does not concur in the requests, the affected institution may request a hearing on the requests before the appropriate committee of the General Assembly. The commission may appear at the hearing and present its own recommendations and findings to the same committee. The provisions of this paragraph do not apply to any capital improvement projects funded in whole or in part prior to July 30, 1996.

No new program may be undertaken by any public institution of higher education without the approval of the commission. The provisions of this chapter apply to all college parallel, transferable, and associate degree programs of technical and comprehensive education institutions. All other programs and offerings of technical and comprehensive education institutions are excluded from this.

Section 59-103-60: Recommendations to Governor's Office and General Assembly

The commission shall make such recommendations to the Governor's Office and the General Assembly as to policies, programs, curricula, facilities, administration, and financing of all state-supported institutions of higher learning as may be considered desirable. The House Ways and Means Committee, the Senate Finance Committee, and the State Budget and Control Board may refer to the commission for investigation, study, and report any requests of institutions of higher learning for new or additional appropriations for operating and for other purposes and for the establishment of new or expanded programs.

Section 59-103-70: Reports

The Commission shall make reports to the Governor and the General Assembly at least annually on the status and progress of higher education in the State, with such recommendations as may be appropriate.

Section 59-103-110: Approval for new construction; exemptions

No public institution of higher learning shall be authorized to construct or purchase any new permanent facility at any location other than on a currently approved campus or on property immediately contiguous thereto unless such new location or purchase of improved or unimproved real property has been approved by the commission.

STATE INSTITUTION BONDS – TITLE 59, CHAPTER 107

Section 59-107-20: Tuition fees required at State institutions; "State Board" defined

Tuition fees (as such term is defined in Section 59-107-30) shall be required to be paid in such amount or amounts and under such conditions as the respective Board of Trustees, Area Commissions or, for any Technical Education College or Center not governed or supervised by an Area Commission, the State Board for Technical and Comprehensive Education, of such state institutions shall prescribe, with the approval of the State Budget and Control Board, hereafter in this chapter referred to as the "State Board". The provisions of this section shall not be construed as requiring uniformity of tuition fees at such state institutions nor shall they preclude a higher scale for non-residents of South Carolina.

Section 59-107-30: Remittance and application of tuition fees

All tuition fees received by any State institution shall be remitted from time to time to the State Treasurer under such regulations as he shall prescribe. The State Treasurer shall apply the same as directed by this chapter. For all purposes of this chapter the term "tuition fees" shall include those fees charged by any State institution for tuition, matriculation and registration. The term "tuition fees" shall not include sums charged for enrolling in courses or classes offered at any summer school

term or in any special seminar, nor shall the term relate to or include fees levied or charged for purposes other than for the purposes of this chapter.

Section 59-107-40: Application for funds or permanent improvements and other expenses; content of application

The respective Boards of Trustees, Area Commissions, through the State Board for Technical and Comprehensive Education, or the State Board for Technical and Comprehensive Education for any Technical Education College or Center not governed and supervised by an Area Commission of such state institutions may make application to the State Board for funds to be used for any one or more of the following purposes: (a) to construct, reconstruct, maintain, improve, furnish and refurnish the buildings and other permanent improvements for such state institutions, (b) to defray the costs of acquiring or improving land needed as sites for such improvements or for the campus of any such state institution, (c) to reimburse such institution for expenses incurred in anticipation of the issuance of such bonds, or (d) to refund state institution bonds heretofore issued for such institutions and which shall on such occasion be outstanding. Such application shall contain:

- (1) A description of the improvement sought, or the amount of outstanding bonds it wishes to have refunded;*
- (2) An estimate of cost, or an estimate of the money required to effect the refunding;*
- (3) A statement establishing the aggregate sum received from tuition fees for the fiscal year immediately preceding the fiscal year in which such application is dated;*
- (4) The schedule of tuition fees in effect;*
- (5) A suggested maturity schedule for bonds issued pursuant to this chapter; and*
- (6) A statement showing the unmatured state institution bonds theretofore issued for such state institution.*

The application shall contain an agreement upon the part of the Board of Trustees, Area Commission, or State Board for Technical and Comprehensive Education that such schedule of tuition fees shall be revised from time to time and whenever necessary to provide the annual principal and interest requirements on the proposed bonds and on all outstanding state institution bonds issued for such state institution.

Section 59-107-50: Authority of State Board as to applications

The State Board may approve, in whole or in part, or modify in any way that it sees fit any application made by any Board of Trustees, Area Commission, or by the State Board for Technical and Comprehensive Education of any of the state institutions and may direct the application of the principal proceeds of any bonds, issued pursuant to this chapter for such purpose if it shall have found:

- (1) That a definite and immediate need therefore exists, or, in the event that the issuance of refunding bonds is sought, that it is to the advantage of the institution to effect the refunding of its outstanding bonds;*
- (2) That a satisfactory and proper schedule of tuition fees is in effect at such State institution;*
- (3) That the annual debt service on all state institution bonds issued for such state institution, including the bonds then proposed to be issued, shall not exceed ninety percent of the sums received by such state institution of higher learning from tuition fees for the preceding fiscal year;*
- (4) That the Board of Trustees, Area Commission, or State Board for Technical or Comprehensive Education of the state institution has agreed that such schedule of tuition fees may be revised from time to time and whenever necessary to provide not less than the sum needed to pay the annual principal and interest requirements on the proposed bonds and on all outstanding state institution bonds issued for such state institution.*

Section 59-107-180: Tuition fees placed in special fund to pay bonds; application of surplus

Immediately following the issuance of state institution bonds, the State Treasurer shall segregate into a special fund all tuition fees of the state institution for which state institution bonds have been

issued and shall apply such special fund to the payment of the principal, interest, and redemption premium, if any, on all bonds issued pursuant to this chapter for such institution; provided, however, that in the event the monies on deposit in such special fund at any time shall exceed all payments of principal and interest due in the then current fiscal year, plus the maximum annual debt service requirements in any succeeding fiscal year of all state institution bonds outstanding for such institution that were issued prior to March 1, 1991, plus any additional amount described in the last sentence of this section, the State Treasurer shall thereupon establish within the special fund created by this section separate funds for each issuance of state institution bonds for such state institution to be designated "special debt service and reserve funds", and (1) shall deposit in the special debt service and reserve fund for each issuance of state institution bonds that was issued prior to March 1, 1991, an amount equal to all payments of principal and interest due in the then current fiscal year on such issuance, plus the maximum annual debt service requirements in any succeeding fiscal year of such issuance, and (2) shall deposit in the special debt service and reserve fund for each issuance of such state institution bonds that was issued on or after March 1, 1991, an amount equal to all payments of principal and interest due on such issuance of state institution bonds in the then current fiscal year. Upon the establishment and funding of such special debt service and reserve funds for the state institution bonds for any state institution in accordance with the foregoing sentence, the State Treasurer shall apply tuition fees later received to maintain the levels of the special debt service and reserve funds at the level required by the foregoing sentence as such level may be adjusted as current annual and maximum annual requirements vary, and may apply any remaining tuition fees and any monies still remaining in the general special fund after the complete funding of the special debt service and reserve funds: to the defeasance of state institution bonds for such institution as provided in Section 59-107-200; or to any purpose set forth in subitems (a), (b), and (c) of the first paragraph of Section 59-107-40. In the event the surplus is to be applied to the defeasance of bonds, the computation of annual debt service requirements for purposes of this section shall be made as though the bonds to be defeased had already been defeased. Notwithstanding the foregoing, it is expressly provided that the State Treasurer may increase the required level for a special debt service and reserve fund for an issuance of state institution bonds issued on or after March 1, 1991, to an amount equal to all payments of principal and interest due on such issuance of state institution bonds in the then current fiscal year plus an amount equal to all payments of principal and interest due on such issuance of state institution bonds to become due between the end of the then current fiscal year and the date at which the State Treasurer anticipates receiving sufficient deposits of tuition fees from such state institution in the ensuing fiscal year to provide an adequate cash flow to meet debt service requirements for such ensuing fiscal year.

Section 59-107-190: Declaration of sufficiency of tuition fees to pay bonds

The General Assembly finds that the tuition fees charged at the several State institutions, if maintained and applied in the manner prescribed by this chapter, will be sufficient to provide for the payment of the principal and interest on State institution bonds issued pursuant to this chapter, without resorting to a property tax.

FACILITIES AND IMPROVEMENTS FOR TECHNICAL COLLEGES -TITLE 59, CHAPTER 53

Section 59-53-57: State funds; procedures for appropriations

State funds for the South Carolina Technical Education System must be appropriated to the board by the General Assembly and funds budgeted for the technical institutions must be allocated in a uniform and equitable manner. Monies appropriated for special schools must be retained at the state level and expended upon recommendation of the board. The board and all institutions under its direction shall use prescribed statewide accounting and budgeting systems which shall account for all revenues and expenditures regardless of sources of funds and purposes for which expended. The systems shall include provisions to identify specific revenues with the specific expenditures to which they relate when the fund source so requires.

The board and institutions are eligible to receive state funds for capital facilities. Prior to the withdrawal of authorized funds from the State Treasurer, the State Board for Technical and Comprehensive Education shall obtain and transmit to the State Treasurer a certificate from the appropriate official at the technical institution stating that a minimum of twenty percent of each project cost has been provided by the local support area. The provisions of this paragraph do not apply to Denmark and Beaufort [now called Technical College of the Lowcountry) Technical Colleges.

Section 59-53-152: Board may construct or acquire plant improvements

The board [refers the SBTCE] may construct or acquire plant improvements at any college, and thereafter utilize, operate and maintain them, if such undertakings have received the prior approval of the state board [refers to the Budget and Control Board].

Section 59-53-153: Bond issues

The board may issue bonds of any college payable from the special student fee imposed at such college in such amounts as may from time to time be determined by the board to be necessary to meet the cost of plant improvements at such college but only under the following conditions:

(1) The approval of the state board, expressed by resolution duly adopted, shall be obtained. Such approval is hereby declared a condition precedent to the issuance of bonds pursuant to this article, and no bonds shall be issued without such approval.

(2) Notwithstanding any other provisions of this article, there must not be outstanding at any time bonds issued pursuant to this section for any college in excess of four million dollars.

(3) No bonds may be issued unless there is on deposit in the bond reserve fund for such college a sum equal to the lesser of (a) ten percent of the principal of all bonds then outstanding, or (b) the maximum reserve prescribed by the applicable regulations of the United States Treasury Department relating to arbitrage bonds.

Section 59-53-154: Bond issues; full faith and credit of State shall not be pledged

The faith and credit of the State shall not be pledged for the payment of the principal and interest of any bonds issued pursuant to this article and there shall be on the face of each bond a statement plainly worded to that effect. Neither the members of the board nor any other person executing the bonds shall be personally liable thereon.

Section 59-53-155: Bond issues; resolutions by board; limitations

In order to utilize the authorizations of this article, the board on behalf of any college may adopt resolutions providing for the issuance of bonds for the college within the limitations herein mentioned, and by such resolution shall prescribe the tenor, terms and conditions of the bonds and the obligations of the college incurred in connection with their issuance. The bonds for any college may be issued either as a single issue or from time to time as several separate issues. In the event that the bonds for any college shall be issued as two or more issues, then notwithstanding, all bonds for such college shall be on a parity in all respects inter sese and shall be equally and ratably entitled to payment from the special student fee imposed at the college; provided, that in instances where an area commission is in charge of the operations of any college, the approval of the area commission to the action of the board authorized by this section shall be first obtained.

**EDUCATIONAL FACILITIES AUTHORITY ACT FOR PRIVATE NONPROFIT INSTITUTIONS OF
HIGHER LEARNING – TITLE 59, CHAPTER 109**

Section 59-109-20: Legislative declaration of policy and purpose

It is hereby declared that for the benefit of the people of the State, the increase of their commerce, welfare and prosperity and the improvement of their health and living conditions it is essential that this and future generations of youth be given the fullest opportunity to learn and to develop their intellectual and mental capacities; that it is essential that institutions for higher education within the State

be provided with appropriate additional means to assist such youth in achieving the required levels of learning and development of their intellectual and mental capacities; and that it is the purpose of this chapter to provide a measure of assistance and an alternative method to enable institutions for higher education in the State to provide the facilities and structures which are sorely needed to accomplish the purposes of this chapter, all to the public benefit and good, to the extent and manner provided herein.

**Case Notes: The State plays a passive and very limited role in the implementation of this chapter, serving principally as a mere conduit through which institutions may borrow funds for the purposes of the act on a tax-free basis...*

The true purpose of this chapter is to provide a measure of assistance and an alternative method to enable institutions for higher learning in the State to provide the facilities and structures which are sorely needed to accomplish this aim to the public benefit and good of all the people of this State.

JOINT BOND REVIEW COMMITTEE - TITLE 2, CHAPTER 47

Section 2-47-30: Powers and Duties

The committee is specifically charged with, but not limited to, the following responsibilities:

(1) To review, prior to approval by the Budget and Control Board, the establishment of any permanent improvement project and the source of funds for any such project not previously authorized specifically by the General Assembly.

(2) To study the amount and nature of existing general obligation and institutional bond obligations and the capability of the State to fulfill such obligations based on current and projected revenues.

(3) To recommend priorities of future bond issuance based on the social and economic needs of the State.

(4) To recommend prudent limitations of bond obligations related to present and future revenue estimates.

(5) To consult with independent bond counsel and other non-legislative authorities on such matters and with fiscal officials of other states to gain in-depth knowledge of capital management and assist in the formulation of short- and long-term recommendations for the General Assembly.

(6) To carry out all of the above assigned responsibilities in consultation and cooperation with the executive branch of government and the Budget and Control Board.

(7) To report its findings and recommendations to the General Assembly annually or more frequently if deemed advisable by the committee.

Section 2-47-35: Establishment of funding priorities

No project authorized in whole or in part for capital improvement bond funding under the provisions of Act 1377 of 1968, as amended, may be implemented until funds can be made available and until the Joint Bond Review Committee, in consultation with the Budget and Control Board, establishes priorities for the funding of the projects. The Joint Bond Review Committee shall report its priorities to the members of the General Assembly within thirty days of the establishment of the funding priorities.

Section 2-47-40: Information to be furnished by agencies and institutions

To assist the State Budget and Control Board (the Board) and the Joint Bond Review Committee (the Committee) in carrying out their respective responsibilities, any agency or institution requesting or receiving funds from any source for use in the financing of any permanent improvement project, as a minimum, shall provide to the Board, in such form and at such times as the Board, after review by the Committee, may prescribe: (a) a complete description of the proposed project; (b) a statement of justification for the proposed project; (c) a statement of the purposes and intended uses of the pro-

posed project; (d) the estimated total cost of the proposed project; (e) an estimate of the additional future annual operating costs associated with the proposed project; (f) a statement of the expected impact of the proposed project on the five-year operating plan of the agency or institution proposing the project; (g) a proposed plan of financing the project, specifically identifying funds proposed from sources other than capital improvement bond authorizations; and (h) the specification of the priority of each project among those proposed.

All institutions of higher learning shall submit permanent improvement project proposal and justification statements to the Board through the Commission on Higher Education which shall forward all such statements and all supporting documentation received to the Board together with its comments and recommendations. The recommendations of the Commission on Higher Education, among other things, shall include all of the permanent improvement projects requested by the several institutions listed in the order of priority deemed appropriate by the Commission on Higher Education without regard to the sources of funds proposed for the financing of the projects requested.

The Board shall forward a copy of each project proposal and justification statement and supporting documentation received together with the Board's recommendations on such projects to the Committee for its review and action. The recommendations of the Commission on Higher Education shall be included in the materials forwarded to the Committee by the Board.

No provision in this section or elsewhere in this chapter, shall be construed to limit in any manner the prerogatives of the Committee and the General Assembly with regard to recommending or authorizing permanent improvement projects and the funding such projects may require.

Section 2-47-50: Establishment of permanent projects by Board; review of proposed revisions; "permanent improvement project" defined

The board shall establish formally each permanent improvement project before actions of any sort which implement the project in any way may be undertaken and no expenditure of any funds for any services or for any other project purpose contracted for, delivered, or otherwise provided prior to the date of the formal action of the board to establish the project shall be approved. State agencies and institutions may advertise and interview for project architectural and engineering services for a pending project so long as the architectural and engineering contract is not awarded until after a state project number is assigned. After the committee has reviewed the form to be used to request the establishment of permanent improvement projects and has reviewed the time schedule for considering such requests as proposed by the board, requests to establish permanent improvement projects shall be made in such form and at such times as the board may require.

Any proposal to finance all or any part of any project using any funds not previously authorized specifically for the project by the General Assembly or using any funds not previously approved for the project by the board and reviewed by the committee shall be referred to the committee for review prior to approval by the board.

Any proposed revision of the scope or of the budget of an established permanent improvement project deemed by the board to be substantial shall be referred to the committee for its review prior to any final action by the board. In making their determinations regarding changes in project scope, the board and the committee shall utilize the permanent improvement project proposal and justification statements, together with any supporting documentation, considered at the time the project was authorized or established originally. Any proposal to increase the budget of a previously approved project using any funds not previously approved for the project by the board and reviewed by the committee shall in all cases be deemed to be a substantial revision of a project budget which shall be referred to the committee for review. The committee shall be advised promptly of all actions taken by the board which approve revisions in the scope of or the budget of any previously established permanent improvement project not deemed substantial by the board.

For purposes of this chapter, with regard to all institutions of higher learning, permanent improvement project is defined as:

- (1) acquisition of land, regardless of cost;*
- (2) acquisition, as opposed to the construction, of buildings or other structures, regardless of cost;*
- (3) construction of additional facilities and work on existing facilities for any given project including their renovation, repair, maintenance, alteration, or demolition in those instances in which the total cost of all work involved is five hundred thousand dollars or more;*
- (4) architectural and engineering and other types of planning and design work, regardless of cost, which is intended to result in a permanent improvement project. Master plans and feasibility studies are not permanent improvement projects and are not to be included;*
- (5) capital lease purchase of a facility acquisition or construction; and*
- (6) equipment that either becomes a permanent fixture of a facility or does not become permanent but is included in the construction contract shall be included as a part of a project.*

Any permanent improvement project that meets the above definition must become a project, regardless of the source of funds. However, an institution of higher learning that has been authorized or appropriated capital improvement bond funds, capital reserve fund or state appropriated funds, or state infrastructure bond funds by the General Assembly for capital improvements shall process a permanent improvement project, regardless of the amount.

Section 2-47-55: Comprehensive Permanent Improvement Plan

(A) All state agency responsible for providing and maintaining physical facilities are required to submit a Comprehensive Permanent Improvement Plan (CPIP) to the Joint Bond Review Committee and the Budget and Control Board. The CPIP must include all of the agency's permanent improvement projects anticipated and proposed over the next five years beginning with the fiscal year starting July 1 after submission. The purpose of the CPIP process is to provide the board and the committee with an outline of each agency's permanent improvement activities for the next five years. Agencies must submit a CPIP to the committee and the board on or before a date to be determined by the committee and the board. The CPIP for each higher education agency, including the technical colleges, must be submitted through the Commission on Higher Education which must review the CPIP and provide its recommendations to the board and the committee. The board and the committee must approve the CPIP after submission and may develop policies and procedures to implement and accomplish the purposes of this section.

(B) The State shall define a permanent improvement only in terms of capital improvements, as defined by generally accepted accounting principles, for reporting purposes to the State.

Section 2-47-56: Acceptance of gifts-in-kind for architectural and engineering services

Each state agency and institution may accept gifts-in-kind for architectural and engineering services and construction of a value less than two hundred fifty thousand dollars with the approval of the Commission of Higher Education or its designated staff, the Director of the Division of General Services, and the Joint Bond Review Committee or its designated staff. No other approvals or procedural requirements, including the provisions of Section 11-35-10, may be imposed on the acceptance of such gifts.

STATE FINANCES GENERALLY, TITLE 11, CHAPTER 9

Section 11-9-130: Funds for capital improvement projects not on state-owned property

Funds authorized by the General Assembly for capital improvement projects not located on state-owned property may be expended only if the projects are owned or operated by a governmental entity including, but not limited to, municipalities or counties or a combination of governmental entities or by a separate authority whose membership is controlled by a governmental entity.

SOUTH CAROLINA CONSOLIDATED PROCUREMENT CODE, TITLE 11, CHAPTER 35

Section 11-35-40: Application of this Code

...(4) *The acquisition of a facility or capital improvement by a foundation or eleemosynary organization on behalf of or for the use of any state agency or institution of higher learning which involves the use of public funds in the acquisition, financing, construction, or current or subsequent leasing of the facility or capital improvement is subject to the provisions of this code in the same manner as a governmental body. The definition and application of the terms "acquisition," "financing," "construction," and "leasing" are governed by generally accepted accounting principles.*

Section 11-27-110: Lease purchase or financing agreement subject to constitutional debt limit

(A) *As used in this section:*

(1) *"asset" means any real property and permanent improvements thereon including structures, buildings, and fixtures;*

(2) *"bond act" means:*

(a) *the county bond act, as contained in Chapter 15 of Title 4;*

(b) *the municipal bond act, as contained in Article 5, Chapter 21 of Title 5;*

(c) *the school bond act as contained in Article 1, Chapter 71 of Title 59;*

(d) *the provisions contained in Articles 3 and 5 of Chapter 11 of Title 6 pertaining to special purpose districts;*

(e) *any provision of law by which the State may issue obligations secured in whole or in part by the full faith, credit, and taxing power of the State; and*

(f) *any other law, general or special, providing for the issuance of general obligation bonds by the State or any of its political subdivisions;*

(3) *"constitutional debt limit" for the State or any political subdivision of the State which has the power to incur general obligation bonded indebtedness, means the limitation of the principal amount of general obligation bonded indebtedness specified in Article X of the Constitution;*

(4) *"enterprise charge" means a local accommodations tax or a local hospitality tax, or both of them, imposed by one or more governmental entities, the proceeds from which may be used only for limited purposes which either (i) has been imposed within the two fiscal years prior to the date of an enterprise financing agreement, or (ii) to the extent a governmental entity pledges such a charge in connection with an enterprise financing agreement, the governmental entity covenants and agrees not to increase disbursements from its general fund to pay for costs which could have been paid from the charge for a period of two fiscal years after the date of the acquisition or completion of the asset provided by the enterprise financing agreement;*

(5) *"enterprise financing agreement" means a financing agreement entered into to provide an asset for a governmental enterprise (i) the revenues from which are expected to be sufficient to pay the amounts due under the financing agreement, or (ii) for which an enterprise charge has been imposed in an amount expected to be sufficient to pay the amounts due under the financing agreement, or (iii) a combination of revenues described under (i) and (ii) are expected to produce an amount sufficient to pay the amounts due under the financing agreement;*

(6) *"financing agreement" means any contract entered into after December 31, 1995, under the terms of which a governmental entity acquires the use of an asset which provides:*

(a) *for payments to be made in more than one fiscal year, whether by the stated term of the contract or under any renewal provisions, optional or otherwise;*

(b) *that the payments thereunder are divided into principal and interest components or which contain any reference to any portion of any payment under the agreement being treated as interest; and*

(c) *that title to the asset will be in the name of or be transferred to the governmental entity if all payments scheduled or provided for in the financing agreement are made, but the term excludes any refinancing agreement and contracts entered into in connection with issues of general obligation bonds or revenue bonds issued pursuant to authorization provided in Article X of the Constitution;*

(7) “governmental enterprise” means any activity undertaken by a governmental entity which either (i) derives revenues from or because of an activity on a basis other than the exercise of the power of taxation by that governmental entity, or (ii) is entitled to be paid or supported from an enterprise charge;

(8) “governmental entity” means:

(a) the State, whose general obligation debt service payments are limited pursuant to Section 13, Article X of the Constitution; or

(b) any political subdivision of the State including a municipality, county, school district, special purpose district, or similar entity, whose general obligation debt is limited as provided in Sections 14 and 15, in Article X of the Constitution;

(9) “limited bonded indebtedness” means the amount of bonded indebtedness that may be incurred by a governmental entity without a referendum or, where the context requires, the amount of such indebtedness then outstanding;

(10) “principal balance” means the total amount, excluding any amount characterized as interest, payable as of any time of consideration under any financing agreement, including any renewals or extensions of the agreement; and

(11) “refinancing agreement” means an agreement or agreements that would be a financing agreement except that (i) it refinances an asset acquired under the terms of a contract or contracts that is not a financing agreement solely by virtue of being dated prior to January 1, 1996, and (ii) the sum of all payments to be made under such agreement is less than the sum of the payments under the contract or contracts it refinances.

(B) A governmental entity described in subsection (A) (8)(b) of this section may not enter into a financing agreement, other than an enterprise financing agreement, a loan agreement for energy conservation measures as provided for in Section 48-52-650, a lease purchase agreement for energy efficiency products as provided for in Section 48-52-660, or a guaranteed energy savings contract as provided for in Section 48-52-670, where no such lease agreement or contract shall constitute in any manner an agreement, consent, authority, or otherwise, to provide retail sales of energy by an energy or power provider or creates the authority to sell or provide retail energy or power, if the principal balance of the financing agreement, when added to the principal amount of limited bonded indebtedness outstanding on the date of execution of the financing agreement exceeds eight percent of the assessed value of taxable property in the jurisdiction of the governmental entity unless the financing agreement is approved by a majority of the electors voting on the agreement in a referendum duly called for this purpose by the governmental entity.

(C) If a governmental entity described in subsection (A) (8)(b) of this section has outstanding any financing agreement, other than an enterprise financing agreement, a loan agreement for energy conservation measures as provided for in Section 48-52-650, or a lease purchase agreement for energy efficiency products as provided in Section 48-52-660, or a guaranteed energy savings contract as provided in Section 48-52-670, where no such lease agreement or contract shall constitute in any manner an agreement, consent, authority, or otherwise, to provide retail sales of energy by an energy or power provider or creates the authority to sell or provide retail energy or power, on the date of issuance of any limited bonded indebtedness pursuant to any bond act, the amount of this limited bonded indebtedness plus the amount of all other limited bonded indebtedness of the governmental entity, when added to the principal balance under any financing agreement or agreements of the governmental entity must not exceed the amount of the governmental entity’s constitutional debt limit unless this bonded indebtedness is approved by a majority of the electors voting on the bonded indebtedness in a referendum duly called for this purpose by the governmental entity. This requirement applies notwithstanding any other provision of any bond act and is in addition to the terms and conditions specified in any bond act.

(D) A payment made by the State pursuant to a financing agreement is deemed general obligation debt service subject to the debt service limitation provided in Section 13, Article X of the Constitution.

Effect of Amendment: The 1997 amendment, in subsection (A), inserted paragraph (4) and redesignated former paragraphs (4) to (9) as paragraphs (5) to (10); in subsection (A)(5), inserted the clause (I) designation and added clauses (ii) and (iii); in subsection (A)(5)(c), inserted “refinancing agreement and”; in subsection (A)(7), inserted “either (I)” and added clause (ii); added subsection (A)(11); and made other non-substantive changes.

Section 11-35-710: Exemptions

The board, upon the recommendation of the Office of General Services, may exempt governmental bodies from purchasing certain items through the respective chief procurement officer’s area of responsibility. The board may exempt specific supplies or services from the purchasing procedures required in this section and for just cause by unanimous written decision limit or may withdraw exemptions provided for in this section. The following exemptions are granted in this chapter:

... (6) expenditure of funds at state institutions of higher learning derived wholly from athletic or other student contests, from the activities of student organizations and from the operation of canteens and bookstores, except as the funds are used for the procurement of construction, architect-engineer, construction-management and land surveying services;

...(11) published books, periodicals, and technical pamphlets;

...(12) South Carolina Research Authority; ...

Section 11-35-1570: Emergency procurements

Notwithstanding any other provision of this code, the chief procurement officer, the head of a purchasing agency, or a designee of either officer may make or authorize others to make emergency procurements only when there exists an immediate threat to public health, welfare, critical economy and efficiency, or safety under emergency conditions as defined in regulations promulgated by the board; and provided, that such emergency procurements shall be made with as much competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

ENERGY EFFICIENCY, TITLE 48, CHAPTER 52

Section 48-52-660: Lease purchase agreements with energy efficiency products vendors and utility companies; procurements for energy-using goods and facilities

(A) A state agency or political subdivision of the State may enter into lease purchase agreements for a duration of more than one year with vendors of energy efficiency products and utility companies. No funds disclaimer clause as provided for in Section 11-35-2030 is required in these contracts. Repayment is allowed from savings on the entity’s budget.

(B) Procurements under the South Carolina Consolidated Procurement Code for energy-using goods and facilities must be procured through competitive sealed proposals pursuant to Section 11-35-1530 with life cycle cost criteria stated as an evaluation factor that must be addressed in a proposal.

Section 48-52-670: Guaranteed energy, water, or wastewater savings contracts

(A) A governmental unit may enter into a guaranteed energy, water, or wastewater savings contract for a duration of more than one year with vendors of guaranteed energy, water, or wastewater savings programs. The financing for the guaranteed energy, water, or wastewater savings contracts may be provided by the vendor of the guaranteed energy, water, or wastewater savings program or by a third-party financial institution or company. No funds disclaimer clause as provided for in Section 11-35-2030 is required in these contracts. Repayment may be made from savings on the agency utility budget.

(B) A governmental unit may award a guaranteed energy, water, or wastewater savings contract

pursuant to Section 11-35-1530 or in the case of a governmental unit not subject to the South Carolina Consolidated Procurement Code, pursuant to other applicable procurement law if it includes a written guarantee that savings will meet or exceed the cost of energy, water, or wastewater conservation measures. A governmental unit may request that the State Energy Office review the methodology used by the guaranteed energy, water, or wastewater savings vendor to project and measure savings and future billable revenues. The State Energy Office shall deliver the written approval or shall deliver a written notice that it has determined not to deliver the approval within thirty days of the receipt of a guaranteed energy, water, or wastewater performance contract. The State Energy Office is authorized to charge a reasonable hourly rate for its review of guaranteed energy, water, or wastewater savings programs or guaranteed energy, water, or wastewater savings contracts, and the payment of the charges may be included in the financing for the guaranteed energy, water, or wastewater savings contract.

(C) For purposes of this section, “governmental unit” means a state government agency, department, institution, college, university, technical school, legislative body, or other establishment or official of the executive, judicial, or legislative branches of this State authorized by law to enter into contracts including all local political subdivisions including, but not limited to, counties, municipalities, public school districts, or public service or special purpose districts.

(D) For purposes of this section, “guaranteed energy, water, or wastewater savings contract” means a contract for the evaluation and recommendation of energy, water, or wastewater conservation measures and for implementation of one or more of these measures. The contract must provide that all payments, except obligations on termination of the contract before its expiration, must be made over time and the energy, water, or wastewater cost savings or billable revenue increases resulting from implementation of the energy, water, or wastewater conservation measures may be used to make payments for the energy, water, or wastewater conservation systems installed pursuant to guaranteed energy, water, or wastewater savings contracts. Annual revenues or savings from the guaranteed contract may be less than annual payments, if during the length of the contract aggregate savings occur as provided for by the terms of the contract.

(E) For purposes of this section “energy, water, or wastewater conservation measure” means a training program, facility alteration, or technology upgrade designed to produce measurable, long-term reductions in energy, water, wastewater, or other consumption, personnel costs, operational costs including, but not limited to:

- (1) insulation of the building structure or systems within the building;*
- (2) storm windows or doors, caulking or weatherstripping, multiglazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, additional glazing, reductions in glass area, or other window and door system modifications that reduce energy consumption;*
- (3) automated or computerized energy control systems;*
- (4) heating, ventilating, or air conditioning system modifications or replacements;*
- (5) replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable state or local building code for the lighting system after the proposed modifications are made;*
- (6) energy recovery systems;*
- (7) cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;*
- (8) water and sewer conservation measures including, without limitation, plumbing fixtures and infrastructure;*
- (9) equipment upgrades that improve accuracy of billable revenue generating systems;*
- (10) automated, electronic, or remotely controlled systems or measures that reduce direct personnel costs; and*
- (11) such other energy, water, or wastewater measures as may provide measurable, long-term operating costs reductions or billable revenue increases.*

STATUTES AT LARGE
General and Permanent Laws

§ 72 – X90 – GENERAL PROVISIONS (Appropriation Acts)

72.12. *(GP: Fixed Student Fees) During the current fiscal year, student fees at the state institutions of higher learning shall be fixed by the respective Boards of Trustees as follows:*

(1) Fees applicable to student housing, dining halls, student health service, parking facility, laundries and all other personal subsistence expenses shall be sufficient to fully cover the total direct operating and capital expenses of providing such facilities and services over their expected useful life except those operating or capital expenses related to the removal of asbestos...